

1 MELINDA HAAG (CABN 132612)
2 United States Attorney

3 J. DOUGLAS WILSON (DCBN 412811)
4 Chief, Criminal Division

5 AARON D. WEGNER (CABN 243809)
6 Assistant United States Attorney

7 1301 Clay St., 3rd Floor
8 Oakland, California 94612
9 Telephone: (510) 637-3740
10 Fax: (510) 637-3724
11 E-Mail: aaron.wegner@usdoj.gov

12 Attorneys for the United States

13
14
15
16
17
18
19
20
21
22
23
24
25
26

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

27 UNITED STATES OF AMERICA,) No. 4-13-70494-MAG
28)
29 Plaintiff,) STIPULATION AND [PROPOSED]
30) ORDER TO CONTINUE PRELIMINARY
31 v.) HEARING AND EXCLUDE TIME
32) UNDER THE SPEEDY TRIAL ACT AND
33) RULE 5.1
34 AHUIZOTL MENDOZA-BAHENA,)
35)
36)
37 Defendant.)
38)
39)

40
41 An arraignment or preliminary hearing is currently scheduled in the case on July 17,
42 2013, at 9:30 a.m. With the agreement of the parties, and with the consent of the defendant, the
43 Court enters this order scheduling an arraignment or preliminary hearing date of July 30, 2013 at
44 9:30 a.m. before the duty magistrate judge, and documenting the defendant's waiver of the
45 preliminary hearing date under Federal Rule of Criminal Procedure 5.1 and the exclusion of time
46 under the Speedy Trial Act, 18 U.S.C. § 3161(b), from July 17, 2013 to July 30, 2013. The

47
48 Stip. Req. to Continue Preliminary Hearing and
49 Exclude Time, No. 4-13-70494-MAG

1 government recently turned over additional discovery and the parties are meeting and conferring
2 regarding resolving the case pursuant to a plea agreement. Therefore, the parties agree, and the
3 Court finds and holds, as follows:

4 1. The defendant is in custody.

5 2. The defendant agrees to an exclusion of time under the Speedy Trial Act, 18 U.S.C.
6 § 3161(h)(8)(B)(iv) to provide reasonable time necessary for effective preparation, taking into
7 account the exercise of due diligence.

8 3. The defendant waives the time limits of Federal Rule of Criminal Procedure 5.1 for
9 preliminary hearing.

10 4. Counsel for the defense believes that postponing the preliminary hearing is in his
11 client's best interest, and that it is not in his client's interest for the United States to indict the
12 case during the normal 21-day timeline established in Rule 5.1.

13 5. The Court finds that, taking into the account the public interest in the prompt
14 disposition of criminal cases, these grounds are good cause for extending the time limits for a
15 preliminary hearing under Federal Rule of Criminal Procedure 5.1. Given these circumstances,
16 the Court finds that the ends of justice served by excluding the period from July 17, 2013 to July
17 30, 2013, outweigh the best interest of the public and the defendant in a speedy trial. 18 U.S.C.
18 § 3161(h)(8)(A).

19 6. Accordingly, and with the consent of the defendant, the Court (1) sets a preliminary
20 hearing date before the duty magistrate judge on July 30, 2013, at 9:30 a.m., and (2) orders that
21 the period from July 17, 2013 to July 30, 2013, be excluded from the time period for preliminary
22 hearings under Federal Rule of Criminal Procedure 5.1 and from Speedy Trial Act calculations

23 ///

24 ///

25 ///

26 ///

1 under 18 U.S.C. § 3161(h)(8)(A) & (B)(iv).

2

3 IT IS SO STIPULATED:

4

5 DATED: July 15, 2013

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

/S/
AARON D. WEGNER
Assistant United States Attorney

DATED: July 15, 2013

/S/
JOHN PAUL REICHMUTH
Counsel for defendant

IT IS SO ORDERED.

July 15, 2013

Kandis Westmore
HON. KANDIS A. WESTMORE
United States Magistrate Judge